IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MARYLAND

BERNARD NATHANIEL CHRISTIAN :

#40916-037

Plaintiff

:

v. : CIVIL ACTION NO. CCB-07-229

: RELATED CRIM. ACTION NO. CCB-03-

351

UNITED STATES OF AMERICA

:

Defendant

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MEMORANDUM

Pending is a pro se Motion for Return of Property¹ filed by Bernard Nathaniel Christian, an inmate at the Federal Correctional Institution- Elkton, in which he requests the return of \$5,743.00 in United States currency, a 2002 Cadillac Escalade, and a 2002 Ford Mustang GT. Plaintiff alleges that the property was improperly forfeited. The government has filed a response in opposition to which Christian has replied. For the reasons that follow, the court will deny the motion by separate order.

I. Facts

Christian was convicted by a jury of conspiring to possess and distribute more than five kilograms of cocaine, and sentenced to 188 months incarceration on February 7, 2005. *See United*

Motion to Return Property.

A person aggrieved by an unlawful search and seizure of property or by the deprivation of property may move for the property's return. The motion must be filed in the district where the property was seized. The court must receive evidence on any factual issue necessary to decide the motion. If it grants the motion, the court must return the property to the movant, but may impose reasonable conditions to protect access to the property and its use in later proceedings.

¹Rule 41(g) of the Federal Rules of Criminal Procedure provides:

States v. Christian et al., Criminal Action No. CCB-03-351 (D. Md). A forfeiture verdict of

\$6,000,000 covering the proceeds of the illegal activities as well as substitute assets was entered

against Christian and his co-defendants. Christian subsequently noted an appeal.

The court approved a preliminary order of forfeiture directing the seizure of certain property

on March 1, 2005. Through appellate counsel, Christian filed a motion to stay forfeiture. The court

denied the motion to stay forfeiture on May 27, 2005, and a final order of forfeiture was entered on

June 8, 2005. The United States Court of Appeals for the Fourth Circuit recently affirmed

Christian's conviction and sentence on appeal. See United States v. Mitchell, et al., 2007 WL

840347 (4th Cir. March 19, 2007) (unpublished).

On January 24, 2007, Christian filed the instant motion to return property claiming that:1)

he was not provided an opportunity to challenge whether the property was the product of illegal

activity; 2) there was a loan on one of the forfeited vehicles; and 3) there was no forfeiture hearing.

II. Discussion

Christian was convicted of charges contained in the Second Superseding Indictment. No

additional hearing was required under 21 U.S.C. § 853 because the forfeiture was adjudicated by the

jury and the property was forfeited pursuant to judicial order. The items Christian wants returned

were specifically condemned and title was passed to the United States.

Under these facts, Christian is not an aggrieved party for the purpose of Rule 41(g) as he was

a charged defendant and later adjudged guilty. There was no improper search or seizure.

Accordingly, the court will deny the motion by separate order.

May 29, 2007

/S/

Date

Catherine C. Blake

United States District Judge

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